IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA

James Muhammad (aka James Muhammad Wright, aka James H. Wright, Sr.),)	C/A No. 3:05-3441-CMC-JRM
Petitioner,)	OPINION AND ORDER
v.)	
John J. Connery, M.A., Interim Director,)	
Department of Mental Health; and Henry McMaster, Attorney General of)	
the State of South Carolina,))	
Respondents.)	
)	

Petitioner, proceeding *pro se*, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 on December 8, 2005. He is presently housed at the William S. Hall Psychiatric Institute's Columbia Care Center, a private contractor of the Department of Mental Health. Respondents filed a return and motion for summary judgment on February 15, 2006. An order was filed by the court notifying Petitioner of the summary judgment procedures and the possible consequences if he failed to respond adequately. Petitioner filed a response on March 28, 2006.

In accordance with this court's order of reference and 28 U.S.C. § 636(b), this matter comes before the court with the Report and Recommendation of United States Magistrate Judge Joseph R. McCrorey.

The court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b). The court reviews only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident*

Ins. Co., 416 F.3d 310 (4th Cir. 2005) stating that "in the absence of a timely filed objection, a district

court need not conduct de novo review, but instead must 'only satisfy itself that there is no clear

error on the face of the record in order to accept the recommendation." (quoting Fed. R. Civ. P. 72

advisory committee's note).

Based on his review of the record, the Magistrate Judge has recommended that the petition

be dismissed because Petitioner has failed to exhaust his state court remedies. The Magistrate Judge

advised Petitioner of his right to file objections to the Report and Recommendation and the serious

consequences if no objections were filed. Petitioner has filed no objections and the time for doing

so has expired.

After reviewing the Petition, the motion, the response, the record, and the Report and

Recommendation of the Magistrate Judge, the court finds no clear error. Accordingly, the Report

and Recommendation of the Magistrate Judge is adopted and incorporated by reference. Therefore,

it is

ORDERED that the Petition is **DISMISSED** for Petitioner's failure to exhaust state court

remedies.

IT IS SO ORDERED.

s/ Cameron McGowan Currie CAMERON MCGOWAN CURRIE

UNITED STATES DISTRICT JUDGE

Columbia, South Carolina July 18, 2006

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